

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CAPITAL ONE, NATIONAL ASSOCIATION,

Plaintiff,

-against-

ALROSE PEPPERTREE L.L.C., ALLEN ROSENBERG,
NEW YORK STATE DEPARTMENT OF TAXATION
AND FINANCE, and "JOHN AND/OR JANE DOE # 1"
to "JOHN AND/OR JANE DOE # 25" inclusive, the last
25 named persons being unknown to plaintiff, the persons
and parties intended being the tenants, occupants, persons,
entities, or corporations, if any, having or claiming upon
the premises at 6401 Jericho Turnpike, Commack, New
York, a parcel of land with buildings and improvements
thereon described in the complaint,

Defendants.

**DECLARATION IN SUPPORT
OF MOTION FOR
SUBSTITUTION OF
TRANSFeree AS PLAINTIFF**

Civil Case No.: CV 11 -1526 (SJF)

THOMAS P. BATTISTONI, declares under penalty of perjury as follows:

1. I am the attorney for Capital One, National Association, which filed this action for the foreclosure of two consolidated leasehold mortgages securing notes in the aggregate principal amount of \$2,700,000.00, encumbering a leasehold estate in a shopping center with fourteen commercial rental units known as Peppertree Commons, at 6401 Jericho Turnpike in Commack, New York (along with certain other collateral), and a deficiency judgment against the borrower and guarantor. I am familiar with all the facts and circumstances heretofore and herein.

2. On June 29, 2011, Capital One, National Association duly assigned and transferred to Namdar Realty Group, LLC ("Namdar") the mortgages, loans, and the claim constituting the cause of action set forth in the complaint in the above entitled action. Namdar has ever since been and is now the lawful owner of the cause of action.

3. Namdar, the transferee, is now the real party in interest herein and Capital One, National Association no longer has any interest in this matter.

4. No previous application for the relief herein prayed for has been made.

WHEREFORE, deponent respectfully moves this Court for entry of the attached Proposed Order, pursuant to Rule 25(c) of the Federal Rules of Civil Procedure: substituting Namdar Realty Group LLC, a New York Limited Liability Company and the assignee of Capital One, National Association ("Namdar"), as the plaintiff and real party in interest in the place and stead of Capital One; amending the caption; and granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
July 29, 2011



Thomas P. Battistoni